

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

JOSEPH LOPES,

Plaintiff,

v.

CALIFORNIA DEPARTMENT OF
CORRECTIONS, *et al.*,

Defendants.

Case No. 1:22-cv-00162-BAM (PC)

ORDER DIRECTING CLERK OF COURT TO
RANDOMLY ASSIGN DISTRICT JUDGE TO
ACTION

FINDINGS AND RECOMMENDATION
THAT PLAINTIFF'S MOTION FOR LEAVE
TO PROCEED *IN FORMA PAUPERIS* BE
DENIED

(ECF No. 2)

FOURTEEN (14) DAY DEADLINE

Plaintiff Joseph Lopes ("Plaintiff") is a state prisoner proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983.

Plaintiff initiated this action on February 7, 2022, together with a motion to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. (ECF Nos. 1, 2.) Plaintiff also included a certified copy of his prison trust account statement. (ECF No. 2, pp. 3–5.)

Examination of these documents reveals that Plaintiff is able to afford the costs of this action. Specifically, the institution certifies that during the past six months, Plaintiff's average monthly balance was \$4,549.31, and the average monthly deposits to Plaintiff's account was \$546.81. Plaintiff's current available balance in his inmate trust account is \$23,837.69.

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1 Accordingly, the Court HEREBY ORDERS the Clerk of the Court to randomly assign a
2 District Judge to this action.

3 Further, it is HEREBY RECOMMENDED that:

- 4 1. The motion to proceed *in forma pauperis*, (ECF No. 2), be DENIED; and
- 5 2. Plaintiff be ORDERED to pay the \$402.00 initial filing fee in full to proceed with this
6 action.

7 These Findings and Recommendations will be submitted to the United States District
8 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within
9 **fourteen (14) days** after being served with these Findings and Recommendations, Plaintiff may
10 file written objections with the court. The document should be captioned “Objections to
11 Magistrate Judge’s Findings and Recommendation.” Plaintiff is advised that the failure to file
12 objections within the specified time may result in the waiver of the “right to challenge the
13 magistrate’s factual findings” on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014)
14 (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

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16 IT IS SO ORDERED.

17 Dated: February 7, 2022

18 /s/ Barbara A. McAuliffe
19 UNITED STATES MAGISTRATE JUDGE
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